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SUBSTANTIVE ISSUES ARISING IN THE IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

NGO participation in the activities of the Committee on Economic, Social and Cultural Rights

Note by the secretariat

GE.00-43093 (E)

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I. INTRODUCTION

1. The Committee on Economic, Social and Cultural Rights attaches great importance to cooperation with all non-governmental organizations (NGOs) active in the field of economic, social and cultural rights - local, national and international, those in consultative status with the Economic and Social Council and those without such status. The Committee constantly encourages their participation in its activities. In an effort to secure the most effective and widest possible participation of NGOs in its activities, the Committee adopted, at its eighth session, on 12 May 1993, a document entitled "NGO participation in activities of the Committee on Economic, Social and Cultural Rights" (E/C.12/1993/WP.14), which explains in a concise manner the modalities of NGO participation in the Committee's work. The basic principles set out in that document have since been supplemented, as the Committee's practice evolved. These developments are reflected in the annual report of the Committee, in the chapter entitled "Overview of the present working methods of the Committee".

2. The present document serves to provide detailed guidelines for NGOs with a view to facilitating their cooperation with the Committee to enhance the effectiveness of the international monitoring, through its examination of State party reports, of the implementation of the International Covenant on Economic, Social and Cultural Rights by States parties.

3. The main activities of the Committee that are open to NGO participation are:

(i) Consideration of State party reports;

(ii) Days of General Discussion;

(iii) Drafting of General Comments.

II. NGO PARTICIPATION IN THE COMMITTEE'S CONSIDERATION OF STATE PARTY REPORTS

A. General

4. The stages in the consideration of State party reports in which NGOs can participate are the following (detailed information is provided below):

(i) Entry into force of the Covenant: once a State party has ratified the Covenant, national NGOs working in the field of economic, social and cultural rights are encouraged to establish contact with the Committee secretariat (the contact address is given at the end of the present document);

(ii) From the receipt of a State party's report until its consideration: submission of any relevant information (placed in country files established and maintained by the secretariat);

(iii) Pre-sessional working group: submission of information directly to the member of the Committee responsible for drafting the list of issues (with copy to the secretariat) and/or submission of written information to the secretariat and/or oral presentations before the pre-sessional working group;

(iv) Session at which a State party's report is scheduled for consideration: submission to the secretariat of a written statement and/or of information in the form of a report, and/or oral presentations before the Committee, within the framework of the Committee's "NGO hearings"; observing the Committee's dialogue with the State party delegation;

(v) Follow-up to the Committee's concluding observations: submission of information to the secretariat on the implementation of the concluding observations of the Committee in the State party concerned.

5. It is important that all information submitted to the Committee is: (a) specific to the Covenant; (b) relevant to the matters under consideration by the Committee or its pre-sessional working group; (c) based on documentary sources and properly referenced; (d) concise and succinct; and (e) reliable and not abusive. NGOs can submit information relating to all the articles of the Covenant, in which case it is useful to follow the "Revised general guidelines regarding the form and content of reports to be submitted by States parties under articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights" (E/C.12/1991/1), which are intended to assist States parties in the drafting of their reports. This lends itself to a parallel report format that resembles the structure of the official report and facilitates the members' comparative review of the parallel information. NGOs may also provide information on some articles or just one article.

6. It is recommended that national NGOs collaborate, coordinate and consult when submitting information to the Committee. It is worthwhile, whenever possible, to produce a single consolidated submission representing a broad consensus by a number of NGOs. That could be accompanied by shorter, more targeted and detailed submissions by individual NGOs on their own priority areas. This kind of coordinated activity will help the secretariat and the Committee members to obtain a clearer picture of the current status of implementation of the Covenant in a given State party. Most importantly from the NGO perspective, joint submissions also eliminate the possibility of duplication and contradictions in the NGO information presented. The former creates inefficiency and increases the burden on Committee members, and the latter can undermine the credibility of the NGO submissions. Both duplicative and contradictory information from NGOs can weaken the NGOs' position and arguments. On the other hand, consistency and accuracy, as well as demonstrated coordination, enhance the professionalism of presentations, increase credibility and ensure the NGOs' intended outcome.

7. NGOs wishing to attend the sessions of the Committee, the pre-sessional working group meetings or the Committee's NGO hearings should request accreditation from the secretariat in advance. Identity photo-badges valid for the duration of the session may be obtained by all delegations from the United Nations Office at Geneva (UNOG) Security and Safety Section at the Villa "Les Feuillantines", 13, avenue de la Paix, Geneva, between 8 a.m. and 2.30 p.m., Monday to Friday, upon presentation of a letter of accreditation and an identity document.

NGOs wishing to speak should also indicate whether they require audio-visual equipment. This will help the secretariat to plan related activities, and to ensure that all participants have adequate time and equipment for their interventions. The average speaking time allotted to any one NGO is 15 minutes, although the speaking time varies in function of the number of NGOs wishing to speak.

8. The working languages of the Committee are English, French, Spanish and Russian. A document provided in English will reach the widest audience. However, the financial means of the NGO permitting, it is useful to submit at least a summary of the information in the working languages of the Committee other than the language of submission of the document.

9. Prior to and during the session, the secretariat provides the Government concerned with a copy of all written information provided to the Committee by NGOs, through the country's Permanent Mission to the United Nations Office at Geneva.

B. NGO participation following the submission of a State party's report

10. When a State ratifies the Covenant, it commits itself to reporting regularly (the initial report is due two years after the entry into force of the Covenant and periodic reports are due at five-year intervals thereafter) to the Committee on measures it has taken towards the realization of the economic, social and cultural rights enshrined in the Covenant, including efforts undertaken through international cooperation. Reports prepared by the State party should conform to the revised general guidelines referred to in paragraph 5 above.

11. The process leading to the consideration of a State party's report by the Committee begins when the State party submits its report to the secretariat. Once the secretariat has received the report, it sends it for translation into the six official languages of the United Nations (English, French, Spanish, Russian, Arabic and Chinese). The report is issued as a United Nations document only when all language versions are ready, which may take up to 12 months. In the meantime, the secretariat of the Committee establishes a list of national NGOs working in the field of economic, social and cultural rights and contacts these NGOs in writing to solicit information from them regarding the implementation of the Covenant in the country in question. Relevant documents (core document, State party report, list of issues, revised general guidelines, guidelines on NGO participation) are enclosed with the letter sent to NGOs. National NGOs interested in cooperating with the Committee are encouraged to contact the secretariat once the Covenant has entered into force for their country. This will assist the secretariat at a later stage, when it seeks to solicit information from national NGOs regarding a State party's report.

12. The Committee also encourages Governments to consult with NGOs and civil society in general on matters concerning the Covenant's implementation, including the reporting process. NGOs may find it opportune to contact the relevant government ministry for information, including reporting dates and related documents.

13. Following the submission of a State party's report and until its consideration by the Committee, NGOs can submit any type of information to the secretariat of the Committee (press clippings, NGO newsletters, video tapes, reports, academic publications, studies, joint

statements etc). This information will be included in the country file established and maintained within the secretariat. The country files contain information obtained by the secretariat from all available sources (United Nations organs, specialized agencies, the media, regional institutions, academic publications, the NGO community, etc.). On the basis of the information contained in the relevant country file, the secretariat prepares for the Committee a country profile, a working document which attempts to provide insights into the situation in the State to be examined, to complement the information provided by the State party in its report.

C. NGO participation in the work of the pre-sessional working group

14. A pre-sessional working group of the Committee, composed of five of its members, meets in private after each Committee session for a week to prepare for the next session. Typically, the pre-sessional working group considers five State party reports at each of its sessions. Each member of the group serves as a "country rapporteur", with the task of drafting a list of issues concerning one of the five reports. A list of issues contains questions addressed to the State party, formulated on the basis of the documents submitted by the State party (core document, report, annexes to the report) and on information made available to the Committee from all other sources, including NGOs. At the session of the Committee at which the report is considered, the country rapporteur is also responsible for drafting concluding observations, on the basis of the State party's report and the dialogue between the Committee and the State party.

15. In the pre-sessional working group, each country rapporteur presents his or her draft list of issues to the other members of the group. The working group discusses each draft, and adopts a final list of issues for each of the five countries under discussion. The list of issues is made available to the State party immediately after its adoption, through its Permanent Mission to the United Nations Office at Geneva. The State party is requested to provide written replies to the list of issues well in advance of the session at which its report is scheduled for consideration, in order to allow sufficient time for their translation into all the working languages of the Committee. The lists and the replies to the lists are also made available to the public on the Web site of the Office of the United Nations High Commissioner for Human Rights (OHCHR) (address at the end of the document).

16. There are three possibilities for NGOs, international or national, to contribute to the work of the pre-sessional working group:

(i) Prior to the meeting of the working group, relevant information may be submitted directly to the country rapporteur concerned;

(ii) Prior to the meeting of the working group, relevant information may be submitted to the secretariat for distribution to the full working group;

(iii) Oral statements may be made by NGO representatives in person during the first morning of the pre-sessional working group meeting.

1. Submission of information to country rapporteurs

17. NGOs can submit relevant information on a particular country directly to the country rapporteur responsible for drafting the list of issues. In this event, the NGO should contact the secretariat or consult the OHCHR Web site for a list of the State party reports that are pending consideration by the Committee at its future sessions. The pre-sessional working group discusses and adopts the list of issues regarding a given State party report 6 to 12 months prior to the consideration of the report by the Committee.

18. Accordingly, an NGO wishing to submit information on a State party directly to the country rapporteur responsible for drafting the list of issues should obtain from the secretariat the name and address of the country rapporteur concerned. It is recommended that a copy of any document that the NGO submits to the country rapporteur be also sent to the secretariat for distribution to other pre-sessional working group members at the working group meeting.

2. Submission of written information to the pre-sessional working group

19. NGOs may also submit written information to the pre-sessional working group, through the secretariat. This information should be made available in the form of a report discussing the implementation of the Covenant in the State party on an article-by-article basis. It is particularly helpful to formulate, at the end of each section specific questions which the pre-sessional working group may consider incorporating in the list of issues with respect to the State party concerned. Ten copies of the report (and a summary) should be delivered to the secretariat one week before the pre-sessional working group meets, for distribution to its members.

3. Oral statement to the pre-sessional working group

20. NGOs are also encouraged to make an oral presentation at the first meeting of the pre-sessional working group, which is usually held on a Monday from 10.30 a.m. to 1 p.m. The statement should be specific to the articles of the Covenant, focusing on the most pressing issues from the NGO perspective and providing suggestions for specific questions that the pre-sessional working group may consider incorporating in the list of issues with respect to the State party concerned.

D. NGO participation at the Committee session

1. Submission of a written statement

21. NGOs in general or special consultative status with the Economic and Social Council, or on the Roster[1] may submit a written statement to the Committee at the reporting session.

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[1] General consultative status is assigned to NGOs with broad interest in most Economic and Social Council activities. Special consultative status is assigned to NGOs with interest in special spheres of Council activities. NGOs in the position to make occasional and useful contributions to the work of the Council or its subsidiary bodies or other United Nations bodies within their competence, may be placed on the Roster.

An NGO without consultative status with the Economic and Social Council may submit a written statement provided that it is sponsored by an NGO in consultative status with the Council. The procedure is identical to that used at the Commission on Human Rights and the Sub-Commission on the Promotion and Protection of Human Rights: the statement should be no more than 2,000 words long for NGOs in general consultative status with ECOSOC and no longer than 1,500 words for NGOs in special consultative status and on the Roster, and it should be double spaced. It will be translated into all the working languages of the Committee and issued as a United Nations document if the secretariat of the Committee receives it no later than three months in advance of the session for which the statement is intended.

2. Submission of a report

22. For the session at which a given State party's report is scheduled for consideration, NGOs can submit written information in the form of a "parallel" report, providing a supplementary or alternative interpretation, or second opinion, concerning the status of implementation of the economic, social and cultural rights enshrined in the Covenant in that country. Where possible, it is useful to submit a summary of the report in all the working languages of the Committee. NGOs should deliver 25 copies of their report and summary to the secretariat a week prior to the session for distribution to Committee members: one for each member (18), three for the secretariat and four for the interpreters.

3. Oral statement at the Committee's NGO hearings

23. NGOs can also voice their concerns during the NGO hearings which take place on the first day of each reporting session, from 3 p.m. to 6 p.m. The average time limit for NGO statements is 15 minutes. In their statements, NGOs are invited to:

State their opinion about the government report;

Indicate whether or not there was any domestic government/NGO consultation or cooperation through the reporting process;

Discuss the main critical points of the parallel report;

Identify prevailing trends relevant to economic, social and cultural rights in the country;

Present any new information that has become available since the NGO written report was submitted;

Propose solutions to problems encountered in the implementation of the Covenant;

Report any positive examples of problem-solving by the Government in implementing the Covenant.

States parties concerned are informed of the NGO hearings and are invited to attend hearings as observers. States parties will have an opportunity to comment on the statements made by NGOs during the Committee's consideration of their report.

4. Observing the consideration of State party reports

24. As part of the consideration of a State party report, the Committee engages in a dialogue with the government delegation. Committee members pose questions on the implementation of the Covenant in the country, based on the State party report, the core document, the replies provided by the State party to the list of issues, and any additional information submitted to the Committee. During the dialogue between the State party delegation and the Committee, NGOs cannot intervene, but it is useful for them to remain in the conference room to observe the dialogue.

E. NGO participation in the Committee's follow-up to consideration of State party reports

25. At the end of its consideration of a State party report, the Committee adopts concluding observations which reflect the Committee's position with respect to the status of implementation of the Covenant by the Government concerned. The concluding observations contain, inter alia, recommendations regarding the further implementation by the State party of the Covenant. The concluding observations are made public, usually on the last day of the Committee session at noon. Soon thereafter, they are translated into and issued in all the official languages of the United Nations as a separate document. They are also placed on the OHCHR Web site. The concluding observations are made available to the State party concerned and are included in the annual report of the Committee.

26. The role of NGOs is crucial after the Committee issues its concluding observations. They can assist by providing the Committee with reports on follow-up measures taken by the Government in response to the recommendations contained in the concluding observations. NGOs can give publicity to the concluding observations locally and nationally, and monitor the Government's performance in implementing the Committee's recommendations. NGOs reporting back to the Committee on the basis of their local monitoring and awareness-raising activities would contribute to more effective follow-up on the part of the Committee by keeping the Committee informed of developments in the country after the consideration of the State party report.

27. It would also be useful for local and national NGOs actively involved in the monitoring activities of the Committee to prepare a document on their experiences and on the working methods of the Committee, with comments, advice for other NGOs and suggestions for improvement of the system. Such a document, if distributed widely within the country and sent to the secretariat of the Committee, would serve as a tool for awareness-raising, and would assist the Committee and the secretariat in improving their performance.

F. NGO participation in the Committee's consideration of the status of implementation of the Covenant in non-reporting States

28. In situations where an initial State party report is significantly overdue, the Committee applies a procedure of reviewing the situation concerning the status of implementation of the Covenant with respect to that State party. The Committee notifies the State party of its intention to consider the status of economic, social and cultural rights in the territory under its jurisdiction

at a specified future session, and encourages the State party to submit its report as soon as possible. In the absence of a report, the Committee proceeds with the consideration as scheduled, on the basis of all information available to it.

29. In such cases, information provided by NGOs becomes especially valuable to the Committee, in view of the absence of materials from the State party. Thus, any relevant information is welcomed, and the most useful way to intervene is to submit a report discussing article by article the implementation of the Covenant by the State party. In addition, it is highly recommended that NGOs participate in the Committee's NGO hearings and provide information orally regarding the situation in the country under review. Information regarding the review by the Committee of the status of implementation of the Covenant in States whose reports are long overdue is available on the OHCHR Web site or from the secretariat.

III. NGO PARTICIPATION IN THE COMMITTEE'S DAY OF GENERAL DISCUSSION

30. At each session, the Committee devotes one day, usually the Monday of the third week of the session, to general discussion of a particular right or of a particular aspect of the Covenant. The purpose is twofold: (i) to assist the Committee in developing in greater depth its understanding of the relevant issues; and (ii) to enable the Committee to encourage inputs into its work from all interested parties.

31. NGOs specialized in the topic scheduled to be addressed by the Committee during its Day of General Discussion can participate in two ways. First, they can provide the Committee with a background document, which should be submitted to the secretariat no later than three months in advance of the session at which the Day of General Discussion is scheduled to take place. The document, which should not be more than 15 double-spaced pages in length, will be translated into all the working languages of the Committee and issued as a United Nations document. Second, specialized NGOs can send their experts to participate in the Day of General Discussion. Information on the topics for discussion at future Days of General Discussion can be obtained from the secretariat.

IV. NGO PARTICIPATION IN COMMITTEE ACTIVITIES RELATING TO THE DRAFTING AND ADOPTION OF GENERAL COMMENTS

32. The Committee endeavours, through its General Comments, to make available for the benefit of all States parties the experience gained continuously through the examination of State party reports. General Comments provide an authoritative interpretation of the rights contained in the Covenant and States parties' obligations and assist and promote the further implementation of the Covenant by providing guidance to States parties on practical ways and means to respect, protect and fulfil specific economic, social and cultural rights. The 14 General Comments adopted by the Committee as of 1 June 2000 are listed in the annex to the present document. The texts of the General Comments may be found, in English, French and Spanish, on the OHCHR Web site. Information regarding the scheduled discussion and adoption of General Comments can be obtained from the secretariat.

33. During the stages of the drafting and discussion of a General Comment, specialized NGOs can address the Committee in writing. During discussions, NGOs can make short oral statements on specific points of the draft general comment. It is preferred that any recommendations as to the text of a draft general comment be presented also in written form (and on electronic diskette) for ease of eventual incorporation in the document.

V. SOURCES OF INFORMATION

34. Information on State reporting and the Committee's sessions is available on the OHCHR Web site at: www.unhchr.ch/html/menu2/6/cescr.htm
(Starting from the OHCHR homepage www.unhchr.ch: click on OHCHR PROGRAMME; click on CONVENTIONAL MECHANISMS; click on COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS.)

35. On-line versions of documents of the Committee, information on ratifications, status of reporting and the membership of the Committee are available at http://www.unhchr.ch/tbs/doc.nsf
(Starting from the homepage www.unhchr.ch, click on DOCUMENTS; click on TREATY BODIES DATABASE.)

36. Further information is available from the secretariat of the Committee at the following address:

Alexandre Tikhonov
Secretary to the Committee on Economic, Social and Cultural Rights
Office of the United Nations High Commissioner for Human Rights
Office 1-025, Palais Wilson
Palais des Nations
8-14 Avenue de la Paix
1211 Geneva 10
Switzerland
Tel. (41 22) 917 9321
Fax. (41 22) 917 9046/9022
E-mail: atikhonov.hchr@unog.ch

Annex

REFERENCE DOCUMENTS

Fact Sheet No. 16/Rev.1
Contains the International Covenant on Economic, Social and Cultural Rights, and information on the working methods of the Committee.
http://www.unhchr.ch/html/menu6/2/fs16.htm
(Starting from the homepage www.unhchr.ch: click on PUBLICATIONS.)

"NGO participation in activities of the Committee on Economic, Social and Cultural Rights" (E/C.12/1993/WP.14)
http://www.unhchr.ch/tbs/doc.nsf
(Starting from the homepage www.unhchr.ch: click on DOCUMENTS; click on TREATY BODIES DATABASE; click on DOCUMENTS; click on BY TREATY; click on COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS; click on OTHER TREATY-RELATED DOCUMENT.)

"Revised general guidelines regarding the form and contents of reports to be submitted by States parties under articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights" (E/C.12/1991/1)
http://www.unhchr.ch/tbs/doc.nsf
(Starting from the homepage www.unhchr.ch: click on DOCUMENTS; click on TREATY BODIES DATABASE; click on DOCUMENTS; click on BY TREATY; click on COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS; click on BASIC REFERENCE DOCUMENT.)

"Preparation of the initial parts of State party reports 'core documents') under the various international human rights instruments" (HRI/CORE/1*)

"Status of the International Covenant on Economic, Social and Cultural Rights and reservations, withdrawals, declarations and objections under the Covenant" (E/C.12/1993/3/Rev.4)
http://www.unhchr.ch/tbs/doc.nsf
(Starting from the homepage www.unhchr.ch: click on DOCUMENTS; click on TREATY BODIES DATABASE; click on DOCUMENTS; click on BY TREATY; click on COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS; click on BASIC REFERENCE DOCUMENT.)

"Selected bibliography of published material relating to the International Covenant on Economic, Social and Cultural Rights and the work of the Committee" (E/C.12/1989/L.3/Rev.2)
(Starting from the homepage www.unhchr.ch: click on DOCUMENTS; click on TREATY BODIES DATABASE; click on DOCUMENTS; click on BY TREATY; click on COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS; click on OTHER TREATY-RELATED DOCUMENT.)

General Comments

No. 1 (1989) on reporting by States parties

No. 2 (1990) on international technical assistance measures

No. 3 (1990) on the nature of States parties' obligations

No. 4 (1991) on the right to adequate housing

No. 5 (1994) on the rights of persons with disabilities

No. 6 (1995) on the economic, social and cultural rights of older persons

No. 7 (1997) on the right to adequate housing (art. 11, para. 1, of the Covenant): forced evictions

No. 8 (1997) on the relationship between economic sanctions and respect for economic, social and cultural rights

No. 9 (1998) on domestic application of the Covenant

No. 10 (1998) on the role of national human rights institutions in the protection of economic, social and cultural rights

No. 11 (1999) on plans of action for primary education

No. 12 (1999) on the right to adequate food

No. 13 (1999) on the right to education

No. 14 (2000) on the right to health

http://www.unhchr.ch/tbs/doc.nsf
(Starting from the homepage www.unhchr.ch: click on DOCUMENTS; click on TREATY BODIES DATABASE; click on DOCUMENTS; click on BY TREATY; click on COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS; click on GENERAL COMMENTS.)

Annual reports of the Committee

Report on the first session, 9-27 March 1987 (E/1987/28)

Report on the second session, 8-25 February 1988 (E/1988/14)

Report on the third session, 6-24 February 1989 (E/1989/22)

Report on the fourth session, 15 January-2 February 1990 (E/1990/23)

Report on the fifth session, 26 November-14 December 1990 (E/1991/23)

Report on the sixth session, 25 November-13 December 1991 (E/1992/23)

Report on the seventh session, 23 November-11 December 1992 (E/1993/22)

Report on the eighth and ninth sessions, 10-28 May 1993, 22 November-10 December 1993 (E/1994/23)

Report on the tenth and eleventh sessions, 2-20 May, 21 November-9 December 1994 (E/1995/22)

Report on the twelfth and thirteenth sessions, 1-19 May 1995, 20 November-8 December 1995 (E/1996/22)

Report on the fourteenth and fifteenth sessions, 30 April-17 May 1996, 18 November-6 December 1996 (E/1997/22)

Report on the sixteenth and seventeenth sessions, 28 April-16 May 1997, 17 November-5 December 1997 (E/1998/22)

Report on the eighteenth and nineteenth sessions, 27 April-15 May 1998, 16 November-4 December 1998 (E/1999/22)

Report on the twentieth and twenty-first sessions, 26 April-14 May 1999, 15 November-3 December 1999 (E/2000/22)

http://www.unhchr.ch/tbs/doc.nsf

(Starting from the homepage www.unhchr.ch: click on DOCUMENTS; click on TREATY BODIES DATABASE; click on DOCUMENTS; click on BY TREATY; click on COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS; click on SESSIONAL/ANNUAL REPORT OF COMMITTEE.)

The Web site contains the annual reports starting from that of the tenth and eleventh sessions.